



House of Representatives

General Assembly

File No. 136

February Session, 2016

Substitute House Bill No. 5256

House of Representatives, March 23, 2016

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-215e of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) Notwithstanding any provision of the general statutes, whenever
4 a child support obligor is institutionalized or incarcerated, the Superior
5 Court or a family support magistrate shall establish an initial order for
6 current support, or modify an existing order for current support, upon
7 proper motion, based upon the obligor's present income and
8 substantial assets, if any, in accordance with the child support
9 guidelines established pursuant to section 46b-215a. Downward
10 modification of an existing support order based solely on a loss of
11 income due to incarceration or institutionalization shall not be granted
12 in the case of a child support obligor who is incarcerated or
13 institutionalized for an offense against the custodial party or the child

14 subject to such support order.

15 (b) In IV-D support cases, as defined in section 46b-231, when the
16 child support obligor is institutionalized or incarcerated for more than
17 ninety days, any existing support order, as defined in section 46b-231,
18 shall be modified to zero dollars effective upon the date that a support
19 enforcement officer files an affidavit in the Family Support Magistrate
20 Division. The affidavit shall include: (1) The beginning and expected
21 end dates of such obligor's institutionalization or incarceration; and (2)
22 a statement by such officer that (A) a diligent search failed to identify
23 any income or assets that could be used to satisfy the child support
24 order while the obligor is incarcerated or institutionalized, (B) the
25 offense for which the obligor is institutionalized or incarcerated was
26 not an offense against the custodial party or the child subject to such
27 support order, and (C) a notice in accordance with subsection (d) of
28 this section was provided to the custodial party and an objection form
29 was not received from such party.

30 (c) A support order that is modified in accordance with subsection
31 (b) of this section shall be reinstated to the prior support amount
32 ninety days after the obligor is released from such institutionalization
33 or incarceration, provided that a support enforcement officer files an
34 affidavit in the Family Support Magistrate Division that provides: (1)
35 The date such obligor was no longer institutionalized or incarcerated;
36 and (2) a statement by such officer that notice, in accordance with
37 subsection (e) of this section, was provided to the child support
38 obligor, and an objection form was not received from such obligor.

39 (d) Prior to filing an affidavit under subsection (b) of this section,
40 the support enforcement officer shall provide notice to the custodial
41 party in accordance with section 52-57 or by certified mail, return
42 receipt requested. The notice shall state in clear and simple language
43 that: (1) Such child support order shall be modified unless the
44 custodial party objects not later than fifteen calendar days after receipt
45 of such notice on the grounds that (A) the obligor has sufficient income
46 or assets to comply with the support order, or (B) the obligor is

47 incarcerated or institutionalized for an offense against the custodial
48 party or the child subject to such support order; and (2) the custodial
49 party may object to the proposed modification by delivering a signed
50 objection form, or other written notice or motion, indicating the nature
51 of the objection or grounds of the motion, to the support enforcement
52 officer not later than fifteen calendar days after receipt of such notice.
53 On receipt of any objection or motion, the support enforcement officer
54 shall promptly arrange with the clerk of the Family Support Magistrate
55 Division to enter the appearance of the custodial party, set the matter
56 for a hearing, send a file-stamped copy of the objection or motion to
57 the IV-D agency of the state to whom the support order is payable, and
58 notify all parties of the hearing date set. The court or family support
59 magistrate shall promptly hear the objection or motion and determine
60 whether the child support order should be modified in accordance
61 with subsection (b) of this section.

62 (e) Prior to filing an affidavit under subsection (c) of this section, the
63 support enforcement officer shall provide notice to the child support
64 obligor in accordance with section 52-57 or by certified mail, return
65 receipt requested, or by regular mail to the Connecticut correctional
66 facility in which the obligor is incarcerated. The notice shall state in
67 clear and simple language that: (1) Such child support order shall be
68 reinstated to the previous support amount effective ninety days after
69 the date of the obligor's release unless the obligor objects prior to the
70 ninetieth day to such reinstatement on the grounds that the obligor has
71 insufficient income or assets to comply with the support order; and (2)
72 the obligor may object to the proposed reinstatement by delivering a
73 signed objection form, or other written motion, indicating the nature of
74 the objection or the grounds for the motion, to the support
75 enforcement officer prior to the ninetieth day after the obligor's release
76 date. On receipt of the objection or motion, the support enforcement
77 officer shall promptly arrange with the clerk of the Family Support
78 Magistrate Division to enter the appearance of the obligor, set the
79 matter for a hearing, send a file-stamped copy of the objection or
80 motion to the IV-D agency of the state to whom the support order is
81 payable, and notify all parties of the hearing date set. The court or

82 family support magistrate shall promptly hear the objection or motion
83 and determine whether the child support order should be reinstated or
84 otherwise modified in accordance with the child support guidelines
85 established pursuant to section 46b-215a. Any objection filed in
86 accordance with this section shall constitute a proper motion to modify
87 a child support order.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2016	46b-215e
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Statement of Legislative Commissioners:

In Section 1(e)(1), "will be reinstated" was changed to "shall be reinstated" for internal consistency.

HS *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Judicial Dept.	GF - Savings	96,000	96,000

Note: GF=General Fund

Municipal Impact: None**Explanation**

The bill makes changes to child support obligations for incarcerated obligators by eliminating service of process costs and replacing it with certified mail costs, resulting in a net savings of approximately \$96,000 annually. There are approximately 3,500 such obligators and the cost of both notifications is approximately \$44,000. Additionally there will be savings of approximately \$140,000 associated with eliminating the service of process requirement.¹

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ Assumes obligators are incarcerated and released in the same fiscal year or that the same number of obligators are incarcerated and released in the same fiscal year.

OLR Bill Analysis**HB 5256*****AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS.*****SUMMARY:**

By law, "IV-D child support cases" are cases in which the Department of Social Services' Bureau of Child Support Enforcement (BCSE) provides child support enforcement services related to children who are Temporary Family Assistance (TFA) or Medicaid beneficiaries, or in foster care.

This bill shortens the child support modification process when an obligor (i.e., person owing child support) is institutionalized or incarcerated for more than 90 days. Under the bill, such an obligor's existing support order (i.e., a court or agency order requiring the obligor to pay child support) is modified to zero and reinstated 90 days after his or her release. Currently, a court order modification or reinstatement requires a full judicial hearing.

The bill specifies steps that a support enforcement officer must follow for the modification and reinstatement to take effect. This includes (1) filing certain affidavits with the Family Support Magistrate Division (FSMD) and (2) providing notice to the child's custodian and the obligor. The bill also creates a process for any modification or reinstatement objections to be heard and ruled upon by the court or family support magistrate.

EFFECTIVE DATE: October 1, 2016

CHILD SUPPORT ORDER MODIFICATION

For child support modification under the bill to take effect, a support enforcement officer must file an affidavit with FSMD stating

that:

1. the obligor's imprisonment or institutionalization beginning and expected end dates,
2. the officer's diligent search failed to identify any income or assets that could satisfy the support order during that time,
3. the offense for which the obligor is incarcerated or institutionalized was not against the child who is the subject of the support order or the child's custodian, and
4. notice of this modification was provided to the child's custodian and the officer did not receive an objection form.

The officer must serve a modification notice to the custodian or send it by certified mail, return receipt requested. The notice must clearly and simply state that the:

1. support order will be modified unless the custodian, within 15 days after receiving the notice, objects on the grounds that the obligor (a) has sufficient income or assets to comply with the existing order or (b) is incarcerated or institutionalized for an offense against the custodian or child and
2. custodian may object by delivering a signed objection form or other written notice or motion to the officer within 15 days after the notice's mailing or service date.

CHILD SUPPORT ORDER REINSTATEMENT

Under the bill, a modified support order must be reinstated to the original amount 90 days after the obligor is released, provided the support officer files an affidavit with FSMD stating (1) the date the institutionalization or incarceration ended and (2) that notice was provided to the obligor and the officer did not receive an objection form.

Before filing an affidavit to reinstate a support order, an officer must

serve notice to the obligor or send it by certified mail, return receipt requested. The notice must clearly and simply state that the:

1. support order will be reinstated to the prior amount 90 days after release unless the obligor objects before then on the grounds that he or she has insufficient income or assets to comply with the order and
2. obligor may object to the reinstatement by delivering a signed objection form or other written motion to the officer prior to the 90 day deadline.

OBJECTIONS

If the officer receives an objection or motion from (1) the custodian regarding a support order modification or (2) the obligor regarding a support order reinstatement, the officer must promptly arrange with the FSMD clerk for a hearing, send a file-stamped copy of the objection or motion to DSS, and notify all parties of the hearing date. The court or family support magistrate must promptly hear the objection and determine whether or not to modify or reinstate the support order in accordance with the child support guidelines, as appropriate.

Any objection filed under the bill constitutes a proper motion to modify a child support order.

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 16 Nay 0 (03/10/2016)